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If the amount is disproportionate to the probable damage sustained, the court will treat it as a penalty. *Connelly v. Priest* (1898) 72 Mo. App. 673; *Zimmerman v. Conrad* (1903) 74 S. W. (Mo.) 139. A contract for the construction of a building costing $13,675, which called for a payment of $50 by the contractor for every day after the seventieth that the building was uncompleted was held not an unreasonable amount as liquidated damages. *United Surety Co. v. Summers* (1909) 72 Atl. (Md.) 775. But *Cochran v. People's Ry. Co.* (1892) 113 Mo. 359, held that where the contract price was $17,785, a forfeiture of $50 per day for sixty-five days was a penalty.

J. I. S.

EVIDENCE—RELEVANCY OF LETTER-PRESS COPY OF A LETTER NOT PROVED TO HAVE BEEN SENT.—FITCH V. SHUBERT THEATRICAL COMPANY (1916) 56 N. Y. L. J. 20.—In an action upon a contract for royalties, the plaintiff alleged that the modification set up by the defendant, reducing the amount to be paid, was obtained by fraud. The alleged fraud was the defendant's misrepresentation that he was still paying 30 per cent of the gross proceeds to the German authors. The defendant claimed to have written the plaintiff that he had purchased the rights of the German authors, and offered in evidence a letter-press copy of the letter of notification. This evidence was excluded by the trial court. *Held,* that it was not reversible error for the lower court to exclude the copy, inasmuch as there was no proof of the mailing of the original.

The court relied altogether upon the case of *Gardam v. Batterson* (1910) 198 N. Y. 175. In that case the evidence offered was the dictation and writing of the letter; the placing of it in a receptacle for that purpose; and a copy of the letter but no proof that anyone mailed it. In the principal case there were not only facts similar to those of *Gardam v. Batterson, supra,* but also correspondence between the plaintiff and the defendant, suggesting, by the failure of the plaintiff to renew a certain demand, the possible receipt of the letter in question; and finally the plaintiffs' refusal to deny that the letter was received. Had there been any evidence offered by the person accustomed to mail the letters in the receptacle, that he always mailed all the letters in it, the testimony should have been admitted to prove an actual mailing. *Hetherington v. Kemp* (1815) 4 Camp. N. P. 192; *Thallhimer v. Brinckerhoff* (1826) 6 Cow. (N. Y.) 90. But regardless of whether the evidence offered in the principal case should have been admitted for the purpose of proving a mailing, it should have been admitted in order to show good faith on the part of the defendant, since the want of good faith is essential to the existence of fraud, which was the question before the jury. In order that the evidence be admissible, it need only be logically and legally relevant. Intrinsic sufficiency is not required. *De Arman v. Taggart* (1896) 65 Mo. App. 82. It is sufficient if it may be expected to become relevant in connection with other facts. *Aycock v. Johnson* (1898) 119 Ala. 405. It is sufficient that it is to be used merely to substantiate the party's own theory. *Comstock v. Butterfield* (1886) 60 Mich. 203.

F. L. McC.